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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DREYER

Atty. Ref.: 4000-3

Reissue Application Serial No. 10/606,783

TC/A.U.: 3651

Filed: June 27, 2003

Examiner: Hess, Douglas A.

For: CONVEYOR IDLER

* * * * *

June 28, 2007

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE
ABANDONED PATENT APPLICATION

Applicant respectfully requests that the above-identified application for which a Notice of Abandonment was received on May 21, 2007 be revived. After a final office action was issued on February 10, 2006, a telephone interview was conducted with Primary Examiner Douglas Hess in early May of 2006. During the interview, several amendments were proposed to the Examiner. After consideration, Examiner Hess telephoned the undersigned indicating that he would allow the application once those amendments were filed in a formal amendment and that there was no need to file an RCE. That amendment was filed on May 9, 2006 and can be seen in the Public PAIR system. In response to the undersigned's concern that there be something in writing in the file to confirm the Primary Examiner's agreement that the case was in condition for

allowance and that no further action was necessary on the part of Applicants to prevent the case going abandoned, Examiner Hess issued a facsimile dated August 1, 2006 (copy attached as Exhibit A) providing a copy of a Notice of Allowance which had not yet been mailed. The Primary Examiner thus confirmed in writing that the Notice of Allowance “is in our system so the case will not go abandoned. Your time period will start upon official mailing of this Notice of Allowance.” (Emphasis added).

Applicant understandably and reasonably relied on this official communication from the Primary Examiner. Periodic phone calls were made to Examiner Hess to determine the status of the application, including telephone voicemails on August 31, 2006 and October 1, 2006, a written Status Inquiry filed March 6, 2007, and a further telephone voicemail left for Examiner Hess on April 23, 2007. In a telephone call from Examiner Hess in early May of 2007, Examiner Hess apologized that the case had “fallen through the cracks” and unfortunately had not been acted upon by the Patent Office and that it was procedurally necessary for the Examiner to issue an advisory action and subsequently a Notice of Abandonment. Primary Examiner Hess indicated that a petition to revive should then be filed with a response to overcome the defective reissue declaration and other matters of form and that no petition or other revival fee would be required because the abandonment was the fault of the USPTO. Attached hereto, therefore, is Applicant’s response to correct the matters of form and to submit the new reissue declaration.

Revival of this application is respectfully requested. No fee is believed to be due under the circumstances as explained above and as agreed by Examiner Hess. However,

DREYER
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if a fee is required, then authority is given to charge such fee to our deposit account No.
14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



John R. Lastova
Reg. No. 33,149

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Telephone: (703) 816-4000
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EXHIBIT A

Patent Technology Centers

Facsimile Transmission

To: Name: John Lestovia
Company:
Fax Number: 7038164100
Voice Phone:

From: Name: Douglas Hess
Official Fax Number: (571) 273-8300
Official After Final Fax Number: (571) 273-8300
Voice Phone: 571-272-6915

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

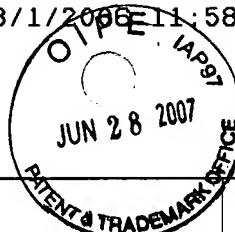
Fax Notes:

John,
Here is a copy of the Notice of Allowance which has not been mailed yet. This is in our system so the case will not go Abandoned. Your time period will start upon official mailing of this Notice of Allowance.

Thanks
Doug

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Date and time of transmission: Tuesday, August 01, 2006 11:58:06 AM
Number of pages including this cover sheet: 02

**Notice of Allowability**

Application No.	Applicant(s)	
10/606,783	DREYER, TERTIUS F.	
Douglas A. Hess	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to after final amendment filed 5-9-06.
2. The allowed claim(s) is/are 1-18.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____.
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Douglas A Hess
Primary Examiner
Art Unit 3651